MC 3649/2007
BEFORE
HON'BLE MR. JUSTICE RANJAN GOGOI
.
This Miscellaneous application has been filed by the applicant, who is the writ petitioner, seeking a direction to the Chief Commercial Manager, N. F. Railway, Maligaon to permit the petitioner to carry on the business of Rail Travel Agency by virtue of the interim order dated 28.8.2007 passed in W.P.(C) No.4456 of 2007 in which proceeding this miscellaneous case has been filed. To appreciate the rival contentions advanced it will be necessary to briefly notice the core facts of the somewhat long and chequered history of litigation between the parties to the present proceedings.

In the year 1988 the writ petitioner was granted a licence for doing the business of Rail Travel Agency. On certain allegations, after issuing a show cause notice dated 8.12.98, the licence of the petitioner was cancelled on 31.3.99. The aforesaid cancellation was challenged before this Court in WP(C) No.1699/1999. There was an interim suspension of the cancellation by order dated 7.4.99. As the licence of the petitioner was upto 19.2.2000 WP(C) No.1699/1999 was closed as infructuous on 6.9.2000. In the meantime, on the basis of an application submitted by the petitioner on 4.1.2000, temporary licence/renewal of the earlier liccence was granted to the petitioner on 23.2.2000. Thereafter, on 8.2.2002, the Railway authorities again took the decision not to renew the licence of the petitioner any further. Challenging the said decision WP(C) No.879/2002 was filed wherein there was an interim suspension of the order dated 8.2.2002 passed by the Railway authorities. WP(C) No.879/2002 was closed by this Court on 17.5.2007 by requiring the Railway authorities to pass a speaking order disclosing the reasons for the decision not to renew the licence of the petitioner. Thereafter, on 23.8.2007, the respondents withdrew the order dated 8.2.2002 but on other additional grounds, recorded in the said order dated 23.8.2007, took the decision not to renew the licence of the petitioner. By the said order dated 23.8.2007 the petitioner was required to return the relevant licence issued to him by the Railway authorities. Aggrieved by the order dated 23.8.2007 WP(C) 4456/2007 has been filed wherein by the interim order dated 28.8.2007 the operation of the impugned order dated 23.8.2007 was suspended. It is on the basis of the aforesaid facts that the Court is now required to decide, prima facie and as an interim measure, as to whether the petitioner has a right to operate the business in question.

To operate the business of Rail Travel Agency the petitioner, obviously, would require a licence. The Court, therefore, has to address itself as to whether such a licence is being held by the petitioner. From the materials available on record, particularly the document enclosed as Annexure-G to the writ petition it appears that the Chief Commercial Manager had issued a temporary licence/granted temporary extension of the licence to the petitioner on 23.2.2000. The aforesaid grant/renewal is not limited by any fixed duration of time. In fact, the orders dated 8.2.2002 (since withdrawn) and the impugned order dated 23.8.2007 speak of a decision not to renew the existing licence of the petitioner. The said existing licence must necessarily be understood by the Court to be the licence dated 23.2.2000. If the decision of the authority not to renew the existing licence of the petitioner has been ordered to be kept under suspension the natural consequence of such order of suspension would be that the licence of the petitioner dated 23.2.2000 would continue to remain in force thereby entitling the petitioner to run the business in question. On the above view, the actions of the Railway authorities in seeking to prohibit the operation/continuance of the business of the petitioner must be held by the Court to be wholly unjustified and illegal. The respondents are, therefore, directed to allow the petitioner to recommence/start / continue the business of Rail Travel Agency on the basis of the licence granted on 23.2.2000.

Misc. Case is accordingly allowed.